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8 **UNITED STATES DISTRICT COURT**  
9 **DISTRICT OF NEVADA**  
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11 JOSE MIGUEL GUTIERREZ,

12 Petitioner,

13 vs.

14 BRIAN E. WILLIAMS, *et al.*,

15 Respondents.  
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) 2:10-cv-00109-JCM-RJJ  
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**ORDER**

17 This is a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254 in which  
18 petitioner, a state prisoner, is proceeding *pro se*.

19 Certain grounds in the petition were dismissed without prejudice, and the case closed  
20 administratively, pursuant to an order entered February 25, 2011. (ECF No. 22.) The dismissal resulted  
21 from petitioner's election to return to state court to exhaust his state-court remedies with respect to  
22 certain of his grounds for relief. (*Id.*)

23 Petitioner's further state-court proceedings have apparently concluded, and petitioner has  
24 now returned to this court. Petitioner has filed a first amended petition. (ECF No. 23.) The court  
25 construes petitioner's filing as a motion to reopen this case. Upon review of the first amended petition,  
26 it appears to the court that petitioner has omitted ground one from his original petition. Accordingly,

1 the court reopens this case and will allow petitioner an opportunity to file a second amended petition that  
2 includes all grounds upon which he seeks relief. If petitioner seeks to abandon ground one, he may file  
3 a declaration stating that he is abandoning ground one and that he will proceed on his first amended  
4 petition.

5 **IT IS THEREFORE ORDERED** that the clerk shall **REOPEN THE FILE**.

6 **IT IS FURTHER ORDERED** that the clerk shall **AMEND** ECF No. 23 to read "First  
7 Amended Petition for Writ of Habeas Corpus."

8 **IT IS FURTHER ORDERED** that the clerk shall **SEND** petitioner one copy of his  
9 original petition (ECF No. 4) and one set of forms for filing § 2254 actions in this court, together with  
10 instructions for filing such forms.

11 **IT IS FURTHER ORDERED** that petitioner shall have **thirty (30) days** from the date  
12 of entry of this order to either file and serve a second amended petition or file a declaration electing to  
13 abandon ground one of his original petition.

14 **IT IS FURTHER ORDERED** that respondents shall have **forty-five (45) days**  
15 following service of either the second amended petition or declaration to file and serve an answer or  
16 other response to the amended petition.

17 **IT IS FURTHER ORDERED** that petitioner shall have **forty-five (45) days** following  
18 service of the answer to file and serve a reply brief.

19 **IT IS FURTHER ORDERED** that respondents' motion to substitute attorney is  
20 **GRANTED**. The clerk shall terminate Alicia L. Lerud and substitute Jeffery M. Conner as the attorney  
21 of record for this case.

22  
23 Dated this 19th day of April, 2012.

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25   
26 UNITED STATES DISTRICT JUDGE